

EASTERN DISTRICT OF TEXAS

CIVIL ACTION NO. 1:12-CV-423

RICHARD ALFORD, *et al.*,

Defendants.

Title 28 U.S.C. § 1915(g) was enacted into law on April 26, 1996, and prevents prisoners who are not in imminent danger of serious physical harm from proceeding with lawsuits on an *in forma pauperis* basis if at least three of their prior cases or appeals were dismissed as frivolous, malicious or for failure to state a claim upon which relief may be granted. The magistrate judge concluded Section 1915(g) applied to this action because plaintiff previously filed at least three

cases that were dismissed as frivolous and one prior case that was dismissed for failure to state a claim. Plaintiff asserts Section 1915(g) should not apply because some of his prior cases were dismissed before Section 1915(g) was enacted into law. However, cases dismissed prior to the date on which Section 1915(g) was enacted into law may be used to provide the basis for dismissal of a case pursuant to Section 1915(g). *Patton v. Jefferson Correctional Center*, 136 F.3d 458, 462 (5th Cir. 1998) (citing *Adepegba v. Hammons*, 103 F.3d 383, 387 (5th Cir. 1996)). Plaintiff's objections are therefore without merit.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendation.

SIGNED at Beaumont, Texas, this 2nd day of November, 2012.

A handwritten signature in black ink, reading "Marcia A. Crone". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE